In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 3991 of 2004

Date of Decision: 17.11.2006

Joginder Kaur

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. K.S. Hissowal, Advocate
for the petitioner.

Mr. B.S. Chahal, AAG, Punjab
for the respondents.

...

J.S. Khehar, J. (Oral).

The petitioner's husband Hardev Singh was inducted into the service of the Punjab Health Department, Hoshiarpur, as a Mali-cum-Chowkidar, in the year 1975. It is the contention of the learned counsel for the petitioner, that the services of the petitioner's husband were regularised by an office order dated 15.2.1983. A photocopy of the order dated 15.2.1983 has been handed over to us in Court today. The same is taken on record and marked as Annexure 'A'. A perusal of the aforesaid order reveals, that the work charged employees, who had completed five years' or more service on 1.4.1980, were to be brought on the regular establishment w.e.f. 1.4.1980. The name of the petitioner's husband Hardev Singh figures at Sr. No.38 amongst the names of Mali-cum-Chowkidars brought on the

regular establishment.

It is also the contention of the learned counsel for the petitioner, that the petitioner's husband died on 1.11.1987 in harness. On the basis of the service rendered by her husband on work charged basis w.e.f. 1975, as well as, on regular basis w.e.f. 1.4.1980, the petitioner claims retiral benefits payable to her husband, including family pension payable to her.

The aforesaid claim of the petitioner, has been repudiated in the joint written statement filed on behalf of respondents No.1 to 5, by asserting, that the services of the petitioner's husband were never regularised. As such, it is the contention of the learned counsel for the respondents, that the husband of the petitioner was not entitled to pension and/or other retiral benefits, nor was the petitioner entitled to family pension. On being pointedly questioned in connection with the office order dated 15.2.1983 (Annexure 'A') vide which the services of the petitioner's husband were regularised, learned counsel for the respondents acknowledged, that the order dated 15.2.1983 was factually passed. He, however, states that those depicted in the office order dated 15.2.1983, were to be regularised subject to the production of a medical certificate of fitness. In this behalf, learned counsel for the respondents, has invited our attention to note (b), under Annexure 'A'. The aforesaid note is being extracted hereunder:-

> "(b) Medical Certificate of fitness should be obtained from the above officials before they are brought on regular cadre."

It is the vehement contention of the learned counsel for the respondents, that the medical certificate referred to in the note, extracted above, was never

submitted by the petitioner's husband. Additionally, learned counsel for the respondents, has invited our attention to the factual position, noticed in paragraph 2 of the preliminary objections, contained in the joint written statement filed on behalf of respondents No.1 to 5. The same is being extracted hereunder:-

> "It is submitted that the petitioner was never regularised since he failed to submit the medical certificate and continued as work charged employee till his death which is clearly proved from the service book."

Since the respondents in the written statement, extracted hereinabove, asserted authenticity of the aforesaid factual position on the strength of the entires recorded in the service book of the petitioner, we required learned counsel for the respondents, to hand over to us the service book of the petitioner's husband, Hardev Singh. We have perused the aforesaid service book, produced for our perusal. The same depicts the payments made to the petitioner's husband on account of wages upto the year 1985, not on the basis of a particular scale of pay, as is the case for regular employees; but on the basis of number of days on which he rendered service, as is the case of work-charged employees. It is, therefore apparent, that in terms of the service book, the employment of the petitioner's husband was not regularised even till the year 1985, although, the order of regularisation of his services, produced for our perusal by the learned counsel for the petitioner, was passed on 15.2.1983 (Annexure 'A'). It is, therefore apparent, that the assertion made by the respondents in their written statement to the effect, that the services of the petitioner's husband never came to be regularised because he did not ever produce the medical fitness

certificate sought from him, consequent upon the passing of the order dated 15.2.1983, has remained unrebutted.

For the reasons recorded above, we have no other alternative, but to conclude, that the services of the petitioner's husband were never factually regularised. Family pension is only payable in the case of regular employees. Since the husband of the petitioner never rendered service on regular basis, we find the instant claim raised by the petitioner for family pension, as wholly misconceived.

Likewise, the claim of the petitioner for other benefits, which allegedly were required to flow to her husband Hardev Singh on his regularisation, can also not be allowed to the petitioner.

For the reasons recorded above, we find no merit in this petition, and the same is, accordingly, dismissed.

( J.S. Khehar )
Judge.

( S.D. Anand )
Judge.

17.11.2006
sk.